

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

D'ANGELO NUNEZ §
VS. § CIVIL ACTION NO. 1:17-CV-263
UNITED STATES OF AMERICA §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, D'Angelo Nunez, an inmate formerly confined at FCC Beaumont, proceeding *pro se*, filed this Federal Tort Claims Act ("FTCA") pursuant to 28 U.S.C. § 2671 against the United States of America.

The Court referred this matter to the Honorable Keith Giblin United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends the FTCA claim be denied as barred by the applicable statute of limitations.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the records, and pleadings. Plaintiff filed objections to the Report and Recommendation.¹ This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, this Court finds plaintiff's objections lacking in merit. Plaintiff has not established his entitlement to equitable tolling. *Irwin v. Dept' of Veterans Affairs*, 498 U.S. 89, 96 (1990); *see also Perez v. United States*, 167 F.3d 913, 914 (5th Cir. 1999).

¹Plaintiff also filed an amended complaint reasserting the factual and legal basis put forth in his Objections.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **19** day of **June, 2018**.



Ron Clark, United States District Judge